

(c) *Other provisions.* (1) You may not remove or destroy purple swamphens or their nests or eggs if doing so is contrary to any State, territorial, tribal, or local laws or regulations.

(2) You may not remove or destroy purple swamphens or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. In particular, the purple swamphen resembles the native purple gallinule (*Porphyrio martinica*). Authorized persons must take special care not to take purple gallinules or their nests or eggs when conducting purple swamphen control activities. Certain persons may take purple gallinules without a permit on rice-producing property in Louisiana according to the terms of a separate depredation order (see §21.45).

(3) If you use firearms to control purple swamphens under this regulation, you may use only nontoxic shot or nontoxic bullets for the control.

(4) If, while operating under this regulation, an authorized person takes any other species protected under the Endangered Species Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act, that person must immediately report the take to the nearest Ecological Services office of the Fish and Wildlife Service. See <http://www.fws.gov/where/> to find the location of the nearest Ecological Services office.

(5) We may suspend or revoke the authority of any agency or individual to undertake purple swamphen control if we find that agency or individual has, without an applicable permit, taken actions that may take Federally listed threatened or endangered species or any bird species protected by the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act (see §10.13 of subchapter A of this chapter for the list of protected migratory bird species), or otherwise violated Federal regulations.

[75 FR 9316, Mar. 1, 2010]

**§21.54 Control order for muscovy ducks in the United States.**

(a) *Control of muscovy ducks.* Anywhere in the contiguous United States

except in Hidalgo, Starr, and Zapata Counties in Texas, and in Alaska, Hawaii, and U.S. territories and possessions, landowners and Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may, without a Federal permit, remove or destroy muscovy ducks (*Cairina moschata*) (including hybrids of muscovy ducks), or their nests, or eggs at any time when found. Any authorized person may temporarily possess, transport, and dispose of muscovy ducks taken under this order.

(b) *Muscovy ducks in Hidalgo, Starr, and Zapata Counties in Texas.* In these counties, take of muscovy ducks, their nests, and their eggs may be allowed if we issue a depredation permit for the activity.

(c) *Disposal of muscovy ducks.* You may donate muscovy ducks taken under this order to public museums or public institutions for scientific or educational purposes, or you may dispose of them by burying or incinerating them. You may not retain for personal use or consumption, offer for sale, or sell a muscovy duck removed under authority of this section, nor may you release it in any other location.

(d) *Other provisions.* (1) You must comply with any State, territorial, or Tribal laws or regulations governing the removal or destruction of muscovy ducks or their nests or eggs.

(2) You may not remove or destroy muscovy ducks or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. If you use a firearm to kill muscovy ducks under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so.

(3) If you operate under this order, you must immediately report the take of any species protected under the Endangered Species Act, or any other bird species protected under the Migratory Bird Treaty Act, to the Fish and Wildlife Service Ecological Services Office for the State or location in which the take occurred.

(4) We reserve the right to suspend or revoke the authority of any agency or individual to undertake muscovy duck

control if we find that the agency or individual has undertaken actions that may harm Federally listed threatened or endangered species or are contrary to the provisions of this part.

[75 FR 9321, Mar. 1, 2010]

### Subpart E—Control of Overabundant Migratory Bird Populations

#### § 21.60 Conservation order for light geese.

(a) *What is a conservation order?* A conservation order is a special management action that is needed to control certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. We are authorizing a conservation order under the authority of the Migratory Bird Treaty Act to reduce and stabilize various light goose populations. The conservation order allows new methods of taking light geese, allows shooting hours for light geese to end one-half hour after sunset, and imposes no daily bag limits for light geese inside or outside the migratory bird hunting season frameworks as described in this section.

(b) *Which waterfowl species are covered by the order?* The conservation order addresses management of greater snow (*Chen caerulescens atlantica*), lesser snow (*C. c. caerulescens*), and Ross's (*C. rossii*) geese that breed, migrate, and winter in North America. The term light geese refers collectively to greater and lesser snow geese and Ross's geese.

(c) *Where can the conservation order be authorized?* The Director can authorize the conservation order in these areas:

(1) The following States that are contained within the boundaries of the Atlantic Flyway: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia.

(2) The following States, or portions of States, that are contained within the boundaries of the Mississippi and Central Flyways: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kan-

sas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

(3) The following States, or portions of States, that are contained within the boundaries of the Pacific Flyway: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(4) Tribal lands within the geographic boundaries in paragraphs (c)(1), (2), and (3) of this section.

(d) *When will the Director authorize the conservation order in a particular Flyway?* (1) The Director may authorize the conservation order for the reduction of greater snow geese for any State or Tribe contained within the Atlantic Flyway by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 500,000 birds has been exceeded and that special conservation actions conducted in Canada are insufficient to reduce the population. Authorization of the conservation order in the U.S. portion of the Atlantic Flyway will occur after the Director determines the degree to which the management goal has been exceeded, the trajectory of population growth, anticipated harvest that would result from implementation of the conservation order, and whether or not similar conservation actions will be conducted in Canada.

(2) The Director may authorize the conservation order for the reduction of mid-continent light geese (lesser snow and Ross's geese) for any State or Tribe contained within the Mississippi and Central Flyways by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 1,600,000 birds (winter index for Mid-continent Population and Western Central Flyway Population, combined) has been exceeded. Authorization of the conservation order in the U.S. portion of the Mississippi and Central Flyways will occur after the Director determines the degree to which the management goal